

REMARKS

By this Amendment, claims 1, 7, and 13-16 are amended. No new matter is presented in this Amendment. Favorable reconsideration and prompt allowance of claim 1-16 are earnestly solicited based upon the preceding amendments and the following remarks.

The rejection of claims 1, 2, 4, 6-8, 10, and 12-16 under 35 U.S.C. §102(e) over U.S. Patent Application No. 2004/002467 to Cromer et al. (“Cromer”) is respectfully traversed. A rejection based on 35 U.S.C. §102 requires every element of the claim to be included in the reference, either directly or inherently.

Independent claims 1, 7, and 13-16 are amended to clarify the Applicants’ method of reallocating bandwidth capacity from low bandwidth usage access point to a high usage access point. Applicants respectfully submit, however, that the claims are not narrowed by such an amendment since such amendment only makes explicit that which was implicitly recited in the original claims.

Applicants respectfully submit that reallocation of bandwidth capacity between access points is clearly explained at page 3, lines 25-30 of the specification, which discloses:

“if the number of users within range of access point A increases substantially, and the number of users within range of the access point B reduces substantially, the second sub-bandwidth channel would be re-allocated to the access point A, and the access point C would be reconfigured by expanding its range to cover the users previously within range of the access point B.”

Cromer, on the other hand, appears to only disclose, at paragraphs [0041] – [0044], forced roaming of clients whereby a client associated with an access point is reallocated to another access point. Cromer’s method is distinguished from the Applicants’ bandwidth allocation method in that unlike Applicants’ method of reallocating bandwidth between access points, Cromer appears to reallocate clients. In fact, unlike the Applicants’ method that automatically reallocates bandwidth based upon a real-time determination of bandwidth usage, Cromer, at the end of paragraph [0041] suggest that a threshold value “is determined by a system

administrator and should be set to allow for extra capacity on the network to handle burst in client activity.” Accordingly, the manual method by which Cromer sets bandwidth capacity is distinctly different than the automatic bandwidth reallocation method recited by the Applicants.

The distinct nature of the Applicants method is further evidenced by the PTO’s own interpretation of Cromer paragraphs [0041] and [0044], at page 3, paragraph 3 of the Office Action. In the words of the Office Action, Cromer discloses: “if the aggregate bandwidth is equal or above the threshold, the redistribution flag is set and the access point can request client devices to be sent to another access point with available capacity. The requesting access point with the high bandwidth usage will be complemented by the receiving access point with the lower bandwidth and extra capacity [0041] and [0044].” Applicants respectfully submit that Cromer’s method of sending client devices to another access point, is totally different from, and fails to anticipate, the Applicants’ reallocation of capacity to the access point requiring additional capacity, so as not to require forced roaming of the client.

Based upon the above argument, Applicants respectfully submit that because Cromer fails to disclose, teach or suggest, reallocating bandwidth as recited in independent claims 1, 7, and 13-16, the rejection under 35 U.S.C. §102(a) over Cromer is improper.

Claims 2-6 and 8-12 depend variously from independent claims 1, 7, and 13-16 and are likewise patentable over Cromer at least for their dependence on an allowable base claim, as well as for additional features they recite.

Furthermore, the rejections of claims 3-6 and 9-16 under 35 U.S.C. §103(a) over Cromer are likewise traversed. As submitted above, the disclosure of Cromer does not teach or suggest reallocation of bandwidth capacity, as recited in each of independent claims 1, 7, and 13-16.

Accordingly, withdrawal of the rejections over Cromer is respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments do not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection]. Entry of the amendments is thus respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claim 1-16 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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